IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8349 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VELJI JETHA VARAIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8349 of 2004

MR NV ANJARIA for Petitioners No. 1-3

MR KL PANDYA AGP for Respondents No. 1-3

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 13/08/2004

ORAL JUDGEMENT

1. Leave to join Joint Secretary, Revenue Department, Sachivalaya, Gandhinagar, as respondent No.4, is granted.

2. Rule. Mr.K.L.Pandya, learned AGP waives service of rule, for the respondents.

3. The present petition has been preferred under Article 226 of the Constitution of India, by the petitioner, whereby the petitioner has submitted that there is an inaction on the part of the respondent authority in not deciding the appeal preferred by the present petitioner before the Joint Secretary (Earthquake Relief), Gandhinagar on 17.01.2002.

4. It is submitted by the learned advocate for the petitioners that though the aforesaid appeal, which is at Annexure-F, has been preferred by the petitioner before the respondent - authority, but the respondent authority has not yet decided the said appeal of the present petitioner.

5. Mr.K.L.Pandya, learned AGP for the respondents has submitted that looking to the very nature of the grievance, the petition is not tenable at law, as it involves the disputed questions of fact. The petitioner has claimed some rights under the Indian Succession Act and, therefore, there is no substance in this petition and it deserves to be dismissed.

6. I have perused the case papers and the facts of the case and have also heard the learned advocates for both the sides. As the appeal is pending before the respondent authority, it will be premature to decide the dispute by this Court. The respondent - authority is directed to decide the appeal of the petitioner preferred on 17.01.2002, which is at Annexure-F, if, so far not decided by giving an opportunity of being heard to the present petitioner, within a period of eight weeks from the date of the receipt of the writ of this Court.

7. With the aforesaid observations and directions, this petition is disposed of, accordingly. Rule is discharged, with no order as to costs. Direct service is permitted for respondent No.4.

[D. N. Patel,J.]

(vijay)